

This single chapter on trade regulations, customs, and standards is excerpted from the FY 2005 Country Commercial Guide for Kuwait. The full text of the report is also available on this website.

CHAPTER 6

TRADE REGULATIONS, CUSTOMS AND STANDARDS

IMPORT DUTY

On April 1, 2003, the National Assembly approved adoption of the GCC Unified Customs Law (UCL). The UCL imposes a five percent ad valorem duty on all food products imported from non-GCC countries. The law will be implemented effective with publication in the Kuwait government's Official Gazette, expected to occur before year's end. Until then no customs duty is imposed on food or beverage products. Tobacco products are assessed a 100 percent customs duty.

All other imports are subject to a five percent general tariff. This flat rate is applied to the cost, insurance, and freight (c.i.f.) value of imported goods. In cases where imports compete with goods that are locally manufactured by "infant industries," the Ministry of Commerce and Industry may impose protective tariffs of up to 15 percent. In such cases, tariff reviews and determinations are conducted on a case-by-case basis. Effective July 1, 1997, the Council of Ministers increased the customs duty on cigarettes and tobacco from 70 percent to 100. An Amiri Decree (2/2002) was issued recently to set taxes on all imported cigarettes and tobacco products by 100 percent, or to impose US \$26 customs on every 1000 cigarettes. A Ministerial order was issued on June 11, 2002 and directed to the Director General of customs to implement this law. Gulf Cooperation Council (GCC) countries are pondering another increase of cigarette and tobacco tariff.

For perishable imports arriving via air, land, or sea, customs clearance is prompt, taking about three hours. To complete clearance, the importer presents the import license and quality test certificate. Recurring perishable imports can be cleared and taken to the importer's premises after evidence that a sample has been submitted to the Municipality for quality testing. The testing period may take as long as three weeks. Efforts are underway to authorize private testing facilities at the Kuwait Institute for Scientific Research (KISR) to alleviate this problem. The Government is aware of this chronic and irritating problem but nothing has been done to resolve it.

American exporters of perishable goods are advised to appoint their own quality surveyors in Kuwait to protect their rights. Local importers have their own connections with the local officials and may obtain certificates in their favor, e.g., stating that competitors' imports are wasted, damaged, or not fit for human consumption.

It should also be noted that incoming shipments (sea freight) to Kuwait currently require a long time to unload because of the long waiting period at ports. Priority is given to ships carrying shipments to Iraq and to the Coalition forces. Assessment of duty on imported goods is usually based on the commercial invoice. However, if customs officials believe the declared value is not realistic, they are authorized to make their own assessment.

Late in 2001, all docking fees were cancelled at Kuwait ports so as to attract foreign investments.

NEW INCOME TAX GUIDELINES

The Department of Income Tax recently issued certain intradepartmental circulars setting out guidelines for determining the taxability of income, deductibility of costs, recognition of revenue, as well as procedures to be adopted to increase tax assessments. The new guidelines are effective for fiscal years beginning on or after January 1, 2002. For details regarding these guidelines, please contact a local tax professional.

EXPORT CONTROLS

There are few restrictions on exports from Kuwait, though government-subsidized commodities are not authorized for export. Only a few items require export licenses and no duties are levied on exported goods. Foreign contractors, however, must have a letter of clearance from the Director of Income Taxes at the Ministry of Finance in order to export equipment from Kuwait for use on a project outside of Kuwait.

IMPORT/EXPORT DOCUMENTATION

Imports to Kuwait require three certified and legalized copies of the commercial invoice, three copies of the Bill of Lading (airway bill), and a Certificate of Origin.

Import Licenses

All imported meats - beef and poultry products, require a health certificate issued by the country of export and a Halal slaughter certificate issued by an approved Islamic center in that country. Exporters should contact the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) for further information.

Certificate of Origin

- Must be certified by a U.S. Chamber of Commerce - affiliated Chamber of Commerce or the National U.S.-Arab Chamber of Commerce. Legalization is performed by the Kuwait Consulate in New York City or by the Kuwait Embassy in Washington, D.C.
- Contain the full name of the manufacturing plant or producer as well as the full name of the freight forwarder.
- Show the means of transportation.
- Indicate country of origin.

Invoices and documents should be sent to the importer before the arrival of goods in Kuwait, as goods cannot be cleared through customs without these documents.

Shipments of live animals, animal products, plants, or plant products require sanitary and health certification and inspections from the country of origin.

Private Kuwaiti companies usually make payment by Letters of Credit through a Kuwaiti bank. Government agencies, except the Ministry of Defense, pay letters of credit directly through the Central Bank of Kuwait.

In brief, export documentation should include:

- detailed description of the goods;
- unit as well as total prices;
- net and gross weight (metric);

- type of packing;
- full name and address of the manufacturers and the exporters;
- trademarks and numbers of the goods as shown in the manifest;
- means of transportation, the shipper's port and country of origin; and,
- certification of the invoices by the authorized organizations.

TEMPORARY ENTRY

Products imported into Kuwait that do not comply with established standards and regulations may be allowed a three-month temporary entry against storage fees. If the exporter fails to correct the fault, the goods will either be re-exported at the exporter's expense, or will be auctioned.

Goods coming into Kuwait for transshipment may be allowed temporary entry. In addition, goods being imported for trade shows or exhibitions can be entered via a temporary import bond. However, temporary import bonds can be very expensive to secure and many exhibitors have found it less costly to simply pay the five percent tariff, even for goods that will be re-exported.

LABELING, MARKING REQUIREMENTS

All goods imported into Kuwait must be clearly marked with the country of origin.

Food labels must include product and brand names, production and expiry dates, country of origin, name and address of the manufacturer, net weight in metric units, and a list of ingredients in descending order of importance. All fats and oils used as ingredients must be specifically identified on the label. Labels must be in Arabic/English or Arabic only. Arabic stickers are accepted.

SHELF-LIFE STANDARDS

Kuwait enforces a shelf-life standard for 44 food products. The manufacturer's established shelf life is accepted for other food products. The manufacturer must print production and expiry dates on the original label or container. Dates cannot be added after the fact via a sticker. Products must arrive at destination with at least half the shelf-life duration remaining. The U.S. supplier should work closely with the importer to ensure compliance with local shelf-life requirements.

Food and pharmaceutical products should also bear the following labeling information:

- Batch or lot number
- Manufacturing date
- Expiry date or validity
- Description of contents
- Storage conditions
- Name of the pharmacopoeia (for a pharmacopoeia product)

PROHIBITED IMPORTS

Kuwait prohibits the importation of pork, pork products, alcoholic beverages, products containing alcoholic beverages, gambling machines and materials that could be considered pornographic. Kuwait also prohibits imports from Israel and imports of Israeli-made products.

STANDARDS

Overview

The Standards and Meteorology Department (SMD) at the Public Authority for Industry is the authority entrusted with developing Kuwait's standards and specifications applicable to various industries and products as per Law Decree No.128/77. In 1997, Ministerial Resolution No. 86/97 set up the Public Committee for Standardization Unification chaired by the Minister of Commerce & Industry. Its members represent the various ministries and entities that are relevant to standards and specifications. The Public Committee approves SMD's general policy, plans its programs, and follows up its activities. It also endorses Kuwaiti standards and amends them as necessary. It has developed some 700 Kuwaiti and Gulf standards that are currently in force. These have been based on a combination of American, British, German and other foreign standards modified to suit Kuwait.

Standards

SMD is the Kuwaiti authority in Kuwait responsible for developing the country's standards. It however coordinates its activities and recommendations with the Gulf Cooperation Council's (GCC) Standards Council. This has been in existence from 1982 to March 2004 but has been recently restructured and replaced by GCC Standardization Authority. This Authority has a Technical Committee representing the 6 GCC member states. The Committee recommends approval of certain standards and specifications to a technical council, which may approve or amend such recommendations. It also has a Board of Directors comprising the relevant ministers in the 6 states.

The Kuwaiti SMD used to have a 5-year plan of standards it intends to develop. Now its work is coordinated with the GCC Standardization Authority.

Conformity Assessment

In Kuwait, there are two main national testing organizations: SMD above and the Quality Labs Department. They do the testing inside Kuwait and issue conformity certificates. But due to its limited resources, both technical and manpower, the Department of Standards contracted with a British Company to issue certificates of conformity or non-conformity.

In April 2003, the Government of Kuwait adopted an import standards program similar to the International Conformity Certificate Program (ICCP) in effect in Saudi Arabia since 1995. The certification program applies to nearly 40 categories of regulated products, including a wide range of common use goods, such as electronic, automotive, and chemical imports. Similar to Saudi Arabia, Kuwait selected Intertek Testing Services (ITS) to administer the ICCP globally on its behalf. ITS operates laboratories in nearly 50 countries around the world, including many labs in the United States. Exporters are not required to use ITS labs, as long as their products achieve certification from an acceptable certifying body. This in particular applies to imported vehicles.

Kuwait's ICCP has raised concerns from the US Trade Representative's office, which considers the program as an unfair and unnecessary barrier to trade. For more information on Kuwait's ICCP, contact the Public Authority for Industry (PAI) at Tel: (965) 431-8240, Fax: (965) 431-8721, e-mail: industry@pai.gov.kw, and Web Site: <http://www.pai.gov.kw>

Product Certification

Certification by a local or international body is required either to obtain a quality mark or conformity or both.

There are no mutual recognition agreements (MRA) with US organizations. This might be raised in discussions between the Government of Kuwait (GOK) and the United States Government (USG) before endorsing the TIFA agreement.

Accreditation

Accreditation in Kuwait is not a requirement and as such no accreditation body exists. However, the Government plans to establish an Accreditation Board, though no definite time is available. The Government has its own labs (Ministry of Public Works, Kuwait Municipality whose labs test the food products, Kuwait Institute for Scientific Research, and the Department of Standards), these labs however function independently and are not accredited by any national authority.

Technical Regulations

The name of the national gazette is Kuwait Al Youm, issued weekly in Arabic by the Ministry of Information. It is also published in English by several translation offices.

Proposed technical regulations are not published in Kuwait Al Youm. Instead, they are published at the WTO web site as part of Kuwait's compliance with the Code of Practice and with its membership at WTO to ensure transparency. It did this in 2003 before it applied its ICCP program referred to above. This allows U.S. and non-U.S. entities to comment on the proposed regulations. Finalized regulations are published both in Kuwait Al Youm and at the Public Authority for Industry's web page: www.Pai.gov.kw.

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In addition, Kuwait has adopted a number of import regulations that conform to Gulf Cooperation Council (GCC) standards. Most importantly:

- (1) Instruction manuals for imported durable goods must be translated into Arabic; and
- (2) Consumer durable goods including, but not restricted to, large appliances must be able to operate without a transformer on Kuwait's 240 volt, 50 hertz power transmission system.

FREE TRADE ZONES (FTZ) /WAREHOUSES

In July 1995, the National Assembly passed a law (Law No. 26 of 1995) authorizing the Ministry of Commerce and Industry to establish free trade zones in Kuwait. In June 1996 the Ministry received proposals from Kuwaiti private firms to operate, manage and market Kuwait's Free Zone at Shuwaikh port. The contract was awarded to the National Real Estate Company (NREC) in the fall of 1996. On May 17, 1998, the Cabinet approved awarding and signing the agreement which gives the government 80 percent of the profits if NREC utilizes the Port Authority's facilities and only 10 percent if it does not. The Kuwait Free Trade Zone at Shuwaikh Port opened in 1999 and covers 1.7 million square meters. The FTZ is divided into three main sections: trade, services and industry and includes warehouses, exhibition grounds, banks, cargo companies and insurance companies. A trade center will also be built inside the FTZ to house exhibit and display facilities.

Warehouses are available in Kuwait not only in Shuwaikh but also at Shuaiba and in large refrigerated warehouses in other locations. Several leading importers also have their own warehousing facilities.

For information about various Kuwaiti laws pertinent to customs, tariffs, import regulations, and export requirements to Kuwait, you may visit the Kuwait Chamber of Commerce and Industry's Web Site:

www.kcci.org/kw

GOVERNMENT PROCUREMENT & OFFSET POLICIES

Kuwait government procurement policies specify local products, when available, and prescribe 10 percent price advantage for local firms in government tenders.

Offset Program

The Counter-Trade Offset Program was established in 1992 to compensate for supply contracts to the Kuwaiti government worth KD 1 million (US \$3.05 million) or more. Contractors must invest 35 percent of the government contract in an approved offset business venture with a Kuwaiti partner in Kuwait or the rest of the Arab world. The program is intended to provide new investment opportunities in Kuwait; aid the transfer of technology to the private sector; create training

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